



STATE OF ARIZONA

OFFICE OF THE GOVERNOR

1700 WEST WASHINGTON STREET, PHOENIX, AZ 85007

JANET NAPOLITANO
GOVERNOR

MAIN PHONE: 602-542-4331
FACSIMILE: 602-542-7601

July 2, 2007

The Honorable Timothy S. Bee
President
Arizona State Senate
1700 West Washington Street
Phoenix, Arizona 85007

Re: Senate Bill 1265: bailable offenses; illegal immigration

Dear President Bee:

Today I signed Senate Bill 1265, regarding the burden of proof necessary to hold without bail an illegal immigrant charged with a serious felony.

Senate Bill 1265 requires courts to deny bail if a defendant is charged with a serious felony and there is probable cause to believe the person has entered or remained in the United States illegally. Recently, some of our courts have sought to impose a higher standard of proof from prosecutors seeking to deny bail to such defendants. Such a higher standard is inconsistent with the intent of voters in enacting Proposition 100, the burden of proof required of prosecutors in federal cases, and the position of the State Attorney General. Senate Bill 1265 brings Arizona more in line with federal law. *See, e.g., County of Riverside v. McLaughlin*, 500 U.S. 44 (1991) (reaffirming *Gerstein v. Pugh*, 420 U.S. 103 (1975) (requiring probable cause determination as a prerequisite to extended detention)). It is appropriate that our standard of proof be consistent with Arizona voter intent and federal law.

Yours very truly,

A handwritten signature in dark ink, appearing to read "Janet Napolitano", followed by a horizontal line.

Janet Napolitano
Governor

JN:TAN/jm

cc: The Honorable Jim Weiers
The Honorable Linda Gray